

**HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT**

Memorandum

WHEREAS, the following CWPs have been filed before the Hon'ble High Court of Himachal Pradesh by JDM/HDM working in HPPWD for counting of contract services for seniority, promotion, increment and other service benefits from the date of initial appointment in the department:-

Sr. No	Name of petitioner(s)/ applicant	DoA on contract	Date of Regularization	Court Case No.
1	Sh. Mohit Gupta, (HDM-Arch.) Sh. Abhishek Negi, (HDM-Arch.) Sh. Ramit Choudhary, (HDM-Arch.) Smt. Sakshi Tanwar (HDM-Arch.)	05.01.2019	01.01.2022	11393/ 2024
2	Sh. Ajay Kumar, JDM (Civil)	21.10.2015	09.04.2019	13972/2024
3	SH. Deva Nand, JDM (Civil)	21.10.2015	09.04.2019	15807/ 2024

AND WHEREAS, various judgments/ orders have been passed by the Hon'ble High Court in above mentioned CWP(s) to consider the Cases/ representations of the petitioner(s) in the light of judgment passed by the Hon'ble High Court of HP in CWP No.2004/2017 titled as Taj Mohammad Vs State of HP &ors.

AND WHEREAS, the operative part of the judgment passed by the Hon'ble High Court of H.P. in CWP No. 2004/2017 titled as Taj Mohammad Vs. State of H.P. & Ors dated 03.08.2023 (relied upon judgment) is reproduced as under:-

“Therefore, as the foundation of the order passed by the learned Tribunal, subject matter of these writ petitions, was the judgment of this Court in Narender Singh Naik’s case (supra), which judgment itself was based on the Five Judge Bench judgment of the Hon’ble Supreme Court in Direct Recruit’s case (supra), and as the learned Tribunal rightly held that the services rendered by the original applicants on contract basis were liable to be counted for the purpose of seniority and consequential benefits after their regularization, as the initial appointment of the original applicants on contract basis was after following the procedure prescribed in the Recruitment & Promotion Rules, we do not find any infirmity in the said findings and further as we do not find any merit in the writ petitions, the same are dismissed by upholding the order passed by the Learned Tribunal. No order as to costs. Pending miscellaneous applications, if any, stand disposed of.”

AND WHEREAS, the said judgment was assailed by the State Govt. by way of filing SLP(C)No.25641-42/2023 before the Hon'ble Apex Court and the same was dismissed by the Hon'ble Court on 4.10.23, thereafter, the department of Food & Civil Supply filed Review Petition before the Hon'ble High Court of HP which was also dismissed by the Hon'ble High Court.

AND WHEREAS, matter was sent to Govt. after consulting the Legal Cell of HPPWD for seeking necessary direction with regard to implementation of above judgments passed by the Hon'ble High Court who in turn has conveyed its decision vide letter No. PWD-A-E(1)-15/2015 dated 07-05-2025 as under:-

“Examined in the Law Department. The Department has requested this department to tender opinion on the issue as to whether the judgment passed by the HHC in CWP No. 13972 of 2024, titled as Ajay Kumar Vs State of HP & Ors. deserves to be implement or agitated further in the Competent Court of Law.

Perusal of record shows that the petitioner had filed the instant petition with the prayer that the respondent-department may be directed to count the service of petitioner rendered on contract basis for the purpose of seniority, pension, annual increment and career scheme alongwith all other consequential benefits from the date of initial appointment on contract basis in the interest of justice. The HHC disposed of CWP (supra) without expressing any opinion in to the merits of the case and directed the respondents to consider and decide the representation of petitioner in the light of judgment passed by the Division Bench of the HHC in CWP No. 2004, titled as Taj Mohammad & Ors. Vs. State of H.P. & Ors. and in accordance with law.

Now, in the context of quarry raised by the department, it is stated that the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 has come into force w.e.f. 20.02.2025, and the Department of Personnel , in this behalf has already issued instruction on 20.02.2025, which clearly states that all the department has to comply with the provisions of the Act ibid in letter and spirit while deciding the matters covered under the Act. Therefore, in order to take a uniform stand in all such cases department is advised to obtain the advice of the Department of Personnel.

Thereafter the matter was taken up with Department of Personnel (DoP) who opined as under:-

Examined. It is clarified that in order to regulate the service conditions of Government employees, the State Government has enacted the H.P. Recruitment and Conditions of Service of Government Employees Act. 2024 (Act No. 23 of 2025, published in the Rajpatra (e-Gazette) on 07.02.2025, the provision of which are clear & specific. The State Government has decided 20.02.2025 as the date from which the provision of this Act are applicable. The interpretation of judgment/Act is beyond the scope of Department of Personnel.

Therefore, department is advised to examine and decide the matter with the aid of appropriate, authority. .”

AND WHEREAS, the Petitioner(s) were initially appointed on contract basis and had accepted the terms and conditions stipulated in their appointment order issued to them in the year 2015 and 2019 as the case may be without any protest. These petitioner(s) had also accepted the regularization so offered to them without any objections. It is also pertinent to mention here that the Recruitment and Promotion Rules in force at the time of appointment of these petitioners provide the recruitment on contract basis. The harmonious reading of the rule clearly suggests that the petitioner(s) were not entitled for seniority and other service benefits of appointment as the contractual appointments are governed by the terms and conditions of the agreements between the parties. It is further provided in the instructions issued by the DoP from time to time regarding regularisation of Contract Employees of the State, it has been stipulated that the regularisation shall be prospective i.e. with immediate effect. The persons engaged on contract basis were aware at the time of their engagement that they were not entitled to the seniority and other service benefits for the period of services rendered on contract basis.

AND WHEREAS, the Govt. of Himachal Pradesh has introduced the H.P. Recruitment and Conditions of Service of Govt. Employees Act, 2024 which have been notified vide notification No. LLR-D(6)-36/2024-LOOSE Dated 07.02.2025 and the Govt. vide Department of Personnel notification PER (AP)-C-A(3)-6/2024 dated 19.02.2025 has appointed 20th February 2025 as the date on which the provisions of the aforesaid act shall come in to force. The relevant provision of the Act *ibid* regarding **“Extension of service benefits”** is reproduced below:-

“(1). The service benefits available under various Central Civil Services Rules, as applicable in the State, the H.P. Civil Services Rules, and other service benefits such as, seniority, increment, promotion etc. shall be applicable only to the employees appointed on regular basis.

(2). No person working in any Govt. Department, who has not been appointed as per the provision of this act and rules made there under on regular basis shall be entitled service benefits available under the various Central Civil Services Rules, as applicable in the State, the H.P. Civil Services Rules and other service benefits such as seniority, increment, promotion etc.:

Provided that a person shall be entitled for service benefits only on the date of regularization of his services:

Provided further, that a person whose services have been regularized after 12th December, 2003 shall also be entitled to service benefits on date of regularization, as if their service have been regularized under the provision of this act.

Provided also that service benefits already extended to the persons from the service other than regular service shall stand withdrawn.”

In view of above provisions, the Act has taken away very basis of judgments passed by the Hon’ble High Court

NOW THEREFORE, in view of the facts stated here-in-above, I am of the considered view that the present petitions which were decided on the analogy of CWP No. 2004/2017 titled as Taj Mohammad Vs. State of HP & Ors. , the petitioners/ other representationist whose services have been regularized after **12th December, 2003** are not entitled for any benefits such as seniority, increment, promotion etc. of contract services rendered by them before regularization. Hence, the claim of the above petitioner(s) is hereby considered and rejected accordingly.

May inform petitioners accordingly.

Engineer-in-Chief,
HP.PWD., Shimla-2.

No.PWE-119-1-D-Man (Court Cases)/ESI-

Copy is forwarded to the following for information:-

Dated:-

1. The Secretary (PW) to the Govt. of HP.
2. All the Chief Engineers in HPPWD.
3. The Chief Architect, HPPWD, Shimla-2.
4. The Ld. Distt. Attorney, HPPWD., Shimla-2.
5. All the Superintending Engineer(s) in HPPWD.
6. The Nodal Officer (IT), HPPWD, Shimla-2.
7. Guard file.

Registrar,
HP.PWD, Shimla-2.